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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,326	01/26/2004	George S. Gabriel	364106/0348 SBP/JFD	9946

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EXAMINER

VALENTI, ANDREA M

ART UNIT PAPER NUMBER

3643

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/765,326

Applicant(s)

GABRIEL ET AL.

Examiner

Andrea M. Valenti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) 3 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Applicant's election of Group I, claims 1 and 2 in the reply filed on 11 March 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,640,228 to Sedlacek in view of U.S. Patent No. 3,544,146 to Asenbauer.

Regarding Claim 1, Sedlacek teaches a filter top for a cage (i.e. enclosure) (Sedlacek abstract), but is silent on a filter top lock for locking a cage level barrier cage such that an animal held within the cage cannot remove the top of the cage from a cage body. However, Asenbauer teaches an enclosure lock with a base member (Asenbauer Fig. 7 #36); a releasable latching member (Asenbauer Fig. 7 #38); a foot member (Asenbauer Fig. 7 #42); and a shoulder member (Asenbauer Fig. 7 #52, 46, 50) wherein the latching member (Asenbauer Fig. 7 #38) is integrally attached to the base member (Asenbauer Fig. 7 #36) and when securing a top of the cage (Asenbauer Fig. 7 #12) to

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a cage body (Asenabauer Fig. 7 #18) the foot and shoulder member of the lock are disposed in a locking position such that foot and shoulder member are in close locking contact with the lower surface of the top of the cage (Asenbauer Fig. 4) and a peripheral lip (Asenbauer Fig. 4 #26) of the cage body; the lock can be released by an operator by pushing in a downward direction on the latching member (Asenbaeur Fig. 7 and 8 arrow and Col. 3 line 5-11). It would have been obvious to one of ordinary skill in the art to be motivated to modify the teachings of Sedlacek with the latching/locking means taught by Asenbauer (Asenbauer Fig. 7 #26, 38, 42, 44, 46, 50) at the time of the inventions to securely hold the top and the cage together as taught by Asenabauer (Asenbauer Col. 2 line 66-68) to further prevent dislodging which is a requirement taught by Sedlacek (Sedlacek Col. 2 line 55).

Regarding Claim 2, Sedlacek as modified teaches the lock is comprised of a durable and semi-rigid plastic (Asenbauer Col. 3 line 39-40).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

European Patent EP 0425208 A2; U.S. Patent No. 4,874,103; U.S. Patent No. 3,137,408; U.S. Patent No. 1,115,507; U.S. Patent No. 4,795,056; U.S. Patent No. 5,964,189; U.S. Patent No. 5,147,055; U.S. Patent No. 6,336,427; U.S. Patent No. 6,336,425; U.S. Patent No. 6,041,741; U.S. Patent No. 6,227,146; U.S. Patent No. 5,735,233; U.S. Patent No. 5,165,362; U.S. Patent No. 4,640,228; U.S. Patent No.

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4,365,590; U.S. Patent No. 6,227,146; U.S. Patent No. 6,041,741; U.S. Patent No. 6,341,581; U.S. Patent No. 4,593,650; U.S. Patent No. 3,343,520.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 571-272-6895. The examiner can normally be reached on 7:00am-5:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Andrea M. Valenti
Patent Examiner
Art Unit 3643

12 May 2005